UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Alexandria Division

UNITED STATES OF AMERICA, *Plaintiff,* v. ALL ASSETS LISTED IN ATTACHMENT A, *etc.*, *Defendants in Rem.*	)	No. 1:14cv969 (LO / TRJ)

CLAIMANTS' UNOPPOSED MOTION
FOR ENTRY OF SEPARATE JUDGMENTS UNDER RULE 54(b)

PURSUANT TO Rule 54(b) of the Federal Rules of Civil Procedure, Claimants make this unopposed motion for entry of the forfeiture orders (Dkt. Nos. 103 & 108 [Hong Kong Assets], 104 [New Zealand assets]) as separate judgments on the following grounds:

1. The government commenced this action against certain foreign assets listed in Attachment A to the complaint, as amended (Dkt. Nos. 1 & 43). Those assets are located in Hong Kong or New Zealand.

2. Several individuals filed claims against those assets (Dkt. Nos. 3 – 9 & 14). The Claimants are Kim Dotcom, Mona Dotcom, Julius Bencko, Sven Echternach, Mathias Ortmann, Finn Batato, Bram van der Kolk, Megaupload Limited, Megapay Limited, Vestor Limited, Megamedia Limited, and Megastuff Limited.

3. The Court has ruled that all claims except that of Mona Dotcom be stricken under the fugitive disentitlement statute (Dkt. Nos. 81 & 82). The Court also has ruled that Mona Dotcom lacks standing to make claims against certain assets, but is allowing her to assert her interests in two other assets (Dkt. Nos. 90 & 91). Based on those rulings, the Court entered

default judgment (Dkt. No. 101) and orders of forfeiture against specific assets located in Hong Kong (Dkt. Nos. 103 & 108) and New Zealand (Dkt. Nos. 104) (the "Forfeiture Orders"). The two assets still at issue under Mona Dotcom's claims are not included in the Forfeiture Orders.

4. Claimants have filed a notice of appeal (Dkt. No. 105) and respectfully submit that appellate jurisdiction exists. However, out of abundance of caution and to ensure the finality of the Forfeiture Orders for purposes of appeal, Claimants now seek entry of an order under Rule 54(b) that the Forfeiture Orders be entered and certified as separate judgments.

5. Under Rule 54(a), a "judgment" includes "any order from which an appeal lies." FED.R.CIV.P. 54(a). When an action involves multiple claims, or multiple parties, or both, any order that adjudicates fewer than all the claims among all the parties sometimes is not "final" and might not be a "judgment" from which an appeal may be taken. FED.R.CIV.P. 54(b). The Court, however, "may direct entry of a final judgment as to one or more, but fewer than all, claims or parties" when the Court "expressly determines that there is no just reason for delay." *Id*. Claimants respectfully submit that grounds for relief under Rule 54(b) are met here.

6. There is no just reason to delay entry of separate final judgments as to the assets covered by the Forfeiture Orders because (i) the government is seeking to register the Forfeiture Orders in Hong Kong and New Zealand, and (ii) the claimants are seeking to appeal from those Forfeiture Orders to preserve their rights in assets subject to the Forfeiture Orders. The Forfeiture Orders are severable from the remaining claims of Mona Dotcom because the assets against which her remaining claims now lies are not included in those default judgment and forfeiture rulings and orders. Therefore, granting relief under Rule 54(b) will permit the prompt, complete, and separate adjudication of claims against particular foreign assets, without affecting

the continuing adjudication in this Court of Mona Dotcom's remaining claims against the final two assets.

7. The government does not oppose this relief.

The parties do not seek a hearing on this motion. A proposed order is submitted herewith.

Dated: April 13, 2015

Respectfully submitted,
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CERTIFICATE OF SERVICE

I hereby certify that on April 13, 2015, the foregoing was filed and served electronically by the Court's CM/ECF system upon all registered users:

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